

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Decided on: 24th April, 2018

+ **CRL.L.P. 544/2016**

RAJESH KUMAR

..... Petitioner

Represented by: Mr. S.N. Gupta, Advocate

versus

SURENDER KUMAR & ANR.

..... Respondents

Represented by: Ms.Meenakshi Chauhan, APP
for State
Mr.Rajesh Pandey and
Ms.Anuradha Pandey,
Advocates for R-1 and R-2
with R-1 and R-2 in person

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

CrI. M.A. No. 15568/2016

No ground is made out to permit petitioner to lead additional evidence. Application is dismissed.

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1. Aggrieved by the judgment dated 13th July, 2016, whereby the learned ACMM acquitted the respondents in complaint case no. 125/13 for the offences punishable under Section 448/34 IPC, petitioner/complainant has preferred the present leave petition.

2. Factual matrix of the present case is that the petitioner filed an application under Section 156(3) Cr.P.C. stating that he was in possession of one room on the ground floor of the property bearing number RZ-F-409,

Palam Colony, Part-II. On 20th December, 2005, a kalandra was prepared under Section 107/151 Cr.P.C. vide DD No. 6B on account of some property dispute. However, on that day itself, a compromise was entered into between the petitioner and the respondents and it was agreed that the respondents will not dispossess the petitioner from the said property. On 6th August, 2006, Gainda Lal, father of petitioner and the respondents passed away whereafter the respondents did not allow the petitioner to enter the property and also removed the locks and goods. Consequently, a complaint was filed at PS Dwarka, however, no action was taken. A civil suit was filed under Section 6 of the Specific Relief Act. Thereafter, an application was filed which was dismissed vide order dated 19th February, 2007, however, the petitioner was granted liberty to lead evidence.

3. Petitioner, Rajesh Kumar examined himself as CW-1, Rajender Kumar, his cousin brother, as CW-2 and Mukesh Kumar Bhatia as CW-3. Summons were issued against the respondents for offence punishable under Section 448 IPC vide order dated 10th July, 2009. Notice under Section 448 IPC was framed against the respondents on 15th December, 2009. In post summoning evidence, petitioner only examined himself as CW-1. Surrender Kumar (respondent no.1) and Narender Kumar (respondent no. 2) got examined themselves as DW-1 and DW-2 respectively and also examined three other defence witnesses.

4. To prove the petitioner's case, petitioner solely relied upon the statement made by the respondents on 20th December, 2005 in the compromise deed wherein it was agreed that the respondents shall not dispossess the petitioner from the said property. Petitioner could not prove the exclusive possession over the property. It is the case of the respondents

that property was transferred by their father Late Shri Gainda Lal in their names on 31st January, 2006 vide sale deed Ex.DW-1/A. There was no challenge to the validity of the sale deed being forged or fabricated. Thus, the petitioner was unable to prove the case beyond reasonable doubt.

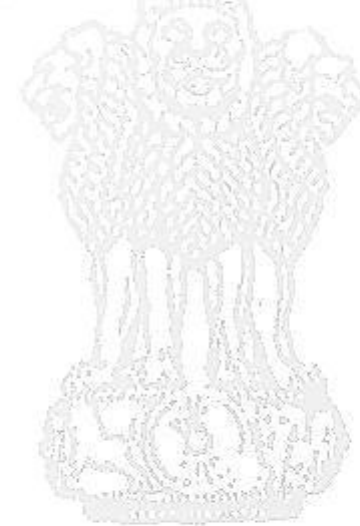
5. Considering the evidence on record, this Court concurs with the view expressed by the learned ACMM. The impugned judgment acquitting the respondent cannot be said to be perverse warranting interference of this Court.

6. Leave to appeal petition is dismissed.

(MUKTA GUPTA)
JUDGE

APRIL 25, 2018

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